IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

MISC.CIVIL APPLICATION NO. 93 OF 2006.

Sou.Varsha Tushar Rajwade. ... Applicant.

Versus.

Tushar Jagannath Rajwade. ... Respondent.

Shri V.Z.Kankaria for the Applicant.

Shri M.P.Rege for the Respondent.

CORAM : ABHAY S.OKA, J.

DATED : 5th June, 2007.

P.C.:

1. Heard the learned Advocates appearing for the parties. Perused the report submitted by the learned Mediator. It is recorded in the report that an amicable settlement is not possible.

2. The Applicant is the wife and the Respondent is her husband. A petition for divorce was filed by the Respondent-husband in the Court of the Civil Judge, Senior Division, Nashik. The Respondent is the resident of Nashik and the Applicant is admittedly the resident of Karanja (Lad), District Washim. The prayer in this application is for transfer of the said petition to the Court of the Civil Judge, Senior Division at Washim. The transfer is sought on the ground of personal convenience of the Applicant-wife. It is stated that the Applicant has to look after a minor child aged 5-1/2 years. It is stated that the Applicant has no place to

stay at Nashik and she cannot afford to stay in a hotel as she has no source of income.

3. The petition is opposed by the Respondent by filing a reply. It is contended that the Respondent being a Government employee will find it extremely difficult to attend the Court at Washim. The learned Advocate for the Respondent without prejudice to his contentions raised in the reply submitted that if this Court is inclined to accede to the prayer for transfer, the petition may be transferred to the Court at Akola which is more convenient to the Respondent. The learned Counsel appearing for the Applicant submitted that the Court at Washim is easily accessible from the place of residence of the Applicant. He stated that if the Applicant is required to incur some expenditure for travelling upto Washim for attending the Court, she will not claim the said expenditure from the Respondent.

4. Considering the averments made in the Application and the reply, it is obvious that the Applicant will have to undertake a long journey for attending the Court at Nashik. Admittedly Applicant has to look after a minor daughter of tender age. As there is no facility of residence available to the Applicant at Nashik, a case for passing an order of transfer is made out. The statement made by the learned Advocate

for the Applicant that the Applicant will not claim any travelling expenditure from the Respondent is accepted.

5. Considering the fact that the Respondent is a Government employee, the trial Court will not insist on personal presence of the Respondent unless it is absolutely necessary.

6. Hence the following order is passed:

(i) Regular Civil Suit No.90 of 2006 pending in the Court of the learned Civil Judge, Senior Division, Nashik is hereby transferred to the Court of the Civil Judge, Senior Division at Washim. In view of the statement made by the learned Advocate for the Applicant, the Applicant will not be entitled to claim any travelling expenses from the Respondent.

(ii) The learned Civil Judge, Senior Division at Washim will not insist on personal appearance of the Respondent unless the same is absolutely necessary.

(iii) After the papers of the case are transferred to the Court at Washim, the

said Court will issue notice to the parties informing them about the date fixed for hearing.

(iv) The Application is disposed of in the above terms with no order as to costs.

Judge.